

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RACARDO SPENCER,)
)
 Plaintiff)) No. 3:15-0458
 v.)) Chief Judge Sharp/Bryant
)) **Jury Demand**
 MATTHEW MOSES,)
)
 Defendant))

**TO: THE HONORABLE KEVIN H. SHARP
CHIEF JUDGE**

REPORT AND RECOMMENDATION

Defendant Matthew Moses has file his motion for sanction of dismissal (Docket Entry No. 43). As grounds, Defendant states that Plaintiff Spencer has failed to keep the Court informed of his current address in violation of the scheduling order entered in this case. Defendant further supplements his motion with a copy of an article appearing in *The Tennessean* on December 4, 2015, stating that Plaintiff Spencer is now wanted by the Metropolitan Nashville Police Department on charges of aggravated robbery and kidnaping (Docket Entry No. 43-1). Defendant argues that, given Plaintiff's current criminal status, it is not likely that he will be disclosing to the Court his current whereabouts. Plaintiff Spencer has not responded in opposition to the motion.

It appears from the record that multiple mailings to Plaintiff by the Clerk have been returned as undeliverable (Docket Entry Nos. 36, 38, 39, 46 and 47).

On July 1, 2016, the undersigned Magistrate Judge issued an order to show cause requiring Plaintiff Spencer to show cause by July 18, 2016, why his complaint should not be dismissed for his failure to keep the Clerk informed of his current address and his failure to prosecute his action (Docket Entry No. 44). Plaintiff Spencer has not responded to this order, and the time within which he was required to do so has expired.

For the foregoing reasons, the undersigned Magistrate Judge finds that this action should be dismissed pursuant to Rule 41(b) for Plaintiff's failure to comply with an order of the Court requiring him to keep the Clerk informed of his current address and Plaintiff's failure to prosecute this action.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge recommends that this action be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has **14 days** from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have **14 days** from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within **14 days** of receipt of

this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140 106 S. Ct. 466, 88 L.Ed.2d 435 (1985), *Reh'g denied*, 474 U.S. 1111 (1986).

ENTER this 22nd day of July, 2016.

/s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge